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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

ITL.0687US (P13046)

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on October 6, 2005

Signature

Typed or printed
name

Cynthia L. Hayden

Application Number

10/005,780

Filed

November 8, 2001

First Named Inventor

Jane Dashevsky

Art Unit

2684

Examiner

Tilahun Gesesse

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒

attorney or agent of record.

28,994

Registration number

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

Timothy N. Trop

Typed or printed name

(713) 468-8880

Telephone number

October 6, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.☐

*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:

Jane Dashevsky et al.

Serial No.: 10/005,780

Filed: November 8, 2001

For: Partitioning Responsibility Between
Link Manager and Host Controller
Interface Firmware Modules in
Wireless Systems

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Art Unit: 2684

Examiner: Tilahun Gesesse

Docket: ITL.0687US
P13046

Assignee: Intel Corporation

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF PRE-APPEAL REVIEW

Sir:

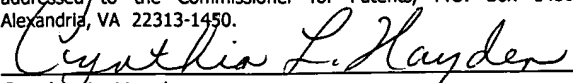
It is not believed that either the current office action or any of the previous office actions set forth a reviewable basis for the rejection. The Applicant has repeatedly asked that at least two things the Board would want to know be identified in the rejection. This has never been done. Therefore, since no rejection has never explained where in the cited reference two claimed elements may be found, the rejection is doomed on appeal.

While the office actions repeatedly criticize the Applicant for providing general responses, it is believed that the office actions do not make out a *prima facie* rejection because they never point out where in the prior art the two claimed elements may be found. It is believed that the reason for this is that those elements cannot possibly be found in the prior art.

More specifically, the independent claims call for doing one thing with a host controller interface firmware and doing another thing with a link manager firmware. There is no discussion

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Cynthia L. Hayden

in the reference, although there is a mention, of the host controller interface firmware. The claim calls for handling the system-wide state of the wireless device through the host controller interface firmware. But without any discussion of what the host controller interface firmware does, it is impossible for the office action to substantiate the rejection because it cannot be said that the host controller interface software does what is claimed when there is no discussion of that host controller interface software. Thus, the first defect of the office action is that it does not point out where, within the prior art, the host controller interface software does what is claimed.

Essentially the same problem occurs with respect to the second claim element which talks about link manager firmware. Moreover, there is no mention of link manager firmware in the cited reference. Thus, there is no way to show that any link manager software does what is claimed.

Finally, the claim calls for a dichotomy wherein the host controller interface firmware handles system-wide state of the wireless device and each link with the device is handled by link manager firmware. Given the inadequacies of the cited references, there is no way to show such a dichotomy.

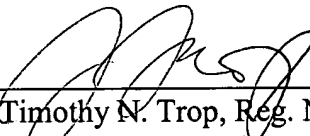
It is respectfully submitted that a link manager protocol is an established type of software as set forth, for example, in the background of the application on page 2, line 25, through page 3, line 10. Likewise, host controller interface software is an established software. In other words, pursuant to the Bluetooth specification, both of these types of software are well established and cannot be read to simply cover any software. Moreover, such a reading would not be possible because, with respect to at least one claim element, the exact same word host controller interface software is used in the prior art.

Thus, the prior art recognizes at least one, if not both, of the cited and claimed software, but never suggests doing what is claimed. Given that situation, it would not be sufficient to suggest that something else does what is claimed other than the claimed elements. To do so would fail to make out a *prima facie* rejection since the scope of the claim requires, not that anything handle the system-wide state and the links, but that specific, well-known, pieces of software be modified to handle the claimed functions.

Therefore, it is respectfully requested that pre-appeal review be granted.

Respectfully submitted,

Date: October 6, 2005



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